

Short Comment Regarding a Proposed Exemption Under 17 U.S.C. 1201

Item 1. Commenter Information

My name is Kevin Chen and I am a software developer with extensive experience in iOS app development, firmware, and robotics. My contact information, including email address, is available at <<http://kevinchen.co/>>.

Item 2. Proposed Class Addressed

Proposed Class 17: “Jailbreaking—All Purpose Mobile Computing Devices”

Item 3. Statement Regarding Proposed Exemption

I am writing in support of exemption class 17.

In their long comment on the same proposed class, The Software Alliance (BSA) asserts that this exemption should be rejected because it is not clear which devices are considered “all-purpose mobile computing devices.” However, there is no ambiguity in the supposedly ambiguous examples they provide: the Microsoft Surface is simply a laptop with a detachable keyboard, as it runs the desktop version of Windows and supports running legacy (non-Metro/non-Modern/non-XAML) Windows applications.

The distinction that separates operating systems “designed for mobile use” is unambiguous and easy to understand. Microsoft Windows is an operating system that originated on the desktop, and has always contained user interface elements that must be used with a keyboard and mouse. For example, buttons in the built-in Windows applications are too small for a user to tap with his or her finger. By contrast, Windows RT (a version of Windows that drops the desktop UI) and Apple’s iOS are optimized for mobile use. They have large buttons and tap areas, and do not make use of desktop user interface conventions such as scroll bars.

The category of “all-purpose mobile computing devices” is unambiguous. It is clear that BSA is simply trying to muddy the waters and get Class 17 rejected on a technicality that does not stand up to closer inspection. By doing so, they are advancing the business interests of their members, namely Apple. In preventing users from running unapproved software on their mobile devices, Apple & BSA are not using copyright law to prevent others from illegally duplicating their operating system. Instead, they are repurposing copyright to prevent the erosion of Apple’s monopoly of iOS app distribution channels.

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